

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**CORR WIRELESS
COMMUNICATIONS, L.L.C.,
CELLULAR SOUTH, INC., and
CELLULAR SOUTH LICENSES, LLC**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12CV036

**AT&T, INC., AT&T MOBILITY LLC,
MOTOROLA SOLUTIONS, INC.,
QUALCOMM INCORPORATED, and
JOHN DOES 1-10**

DEFENDANTS

**QUALCOMM'S RESPONSE IN OPPOSITION
TO PLAINTIFFS' MOTION FOR EXPEDITED SCHEDULING AND
CASE MANAGEMENT CONFERENCE AND FOR OTHER RELIEF**

Defendant Qualcomm Incorporated, by and through counsel, responds to Plaintiffs' Motion for Expedited Scheduling and Case Management Conference and For Other Relief and states as follows:

1. Plaintiffs have moved the Court to abandon its well established pre-trial rules and procedures and to, instead, accept Plaintiffs' self-serving procedures and scheduling deadlines as stated in a proposed case management order that they have drafted unilaterally and submitted without any prior effort to confer and negotiate with counsel for Qualcomm. This case is complex, and Plaintiffs' aim to disrupt the orderly development of this complex case is inappropriate.

2. Plaintiffs seek to rush, in particular, the initial stages of this litigation, presumably in hopes of avoiding or weakening jurisdictional challenges and/or Rule 12(b)(6) challenges. Qualcomm must analyze in detail the relationship of allegations and requested relief in this case to matters *currently* before and under consideration by the FCC pursuant to a Notice of Proposed

Rulemaking issued March 21 at the request of Cellular South.¹ Furthermore, as the Court is aware, cases in which antitrust claims are alleged often require very close analysis at the Rule 12(b)(6) stage. See Bell Atlantic v. Twombly, 550 U.S. 544 (2007). Cellular South seeks to place excessive time limitations on Qualcomm's right to file Rule 12(b)(6) and similar motions by first filing an extraordinarily voluminous complaint, and thus asking this Court to place an unreasonable deadline on dispositive motions.

3. This Court is governed by the Federal Rules of Civil Procedure and the Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi. These rules balance the competing demands for prompt resolution and for adequate time for preparation, while providing appropriate consideration for conservation of judicial resources. The time sequences established by these rules, when combined with the wise exercise of judicial discretion to promote justice, make orderly development and disposition of cases possible, even in cases of this complexity. Plaintiffs have provided no compelling reason to disrupt the operation of these rules.

In support of this Response, Qualcomm refers the Court to its Memorandum Brief in Opposition to Plaintiffs' Motion for Expedited Scheduling and Case Management Conference and In Support of Qualcomm's Motion For Extension of Time To Respond To Complaint, , and also attaches the following exhibit:

Exhibit A FCC Notice of Proposed Rulemaking, March 21, 2012.

For the foregoing reasons, Qualcomm requests that this Court deny Plaintiffs' motion and instead allow the rules of this Court to dictate the orderly, thoughtful progression and preparation of this case.

¹ Cellular South , Inc., and its affiliated companies, Corr Wireless Communication , L.L.C., and Cellular South Licenses, LLC, are all named plaintiffs in this action. For convenience of reference, they will collectively be referred to hereinafter as "Cellular South" or "Plaintiffs."

Dated, this the 16th day of April, 2012.

QUALCOMM INCORPORATED, Defendant

By: /s/ L. F. Sams, Jr.
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CERTIFICATE OF SERVICE

I, L. F. Sams, Jr., one of the attorneys for Defendant, Qualcomm Incorporated, hereby certify that I have electronically filed the foregoing Qualcomm's Response in Opposition to Plaintiffs' Motion for Expedited Scheduling and Case Management Conference and for Other Relief with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participant:

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This the 16th day of April, 2012.

/s/L. F. Sams, Jr.
L. F. SAMS, JR.